

AMENDED IN ASSEMBLY APRIL 16, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1733**

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**Introduced by Assembly Member Logue**

February 16, 2012

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An act to amend Section 1374.13 of the Health and Safety Code, *and to add Section 14594 to the Welfare and Institutions Code*, relating to ~~health care service plans~~ *telehealth*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1733, as amended, Logue. ~~Health care service plans: telehealth.~~ *Telehealth.*

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law prohibits a health care service plan from requiring in-person contact between a health care provider and a patient before payment is made for covered services appropriately provided through telehealth, as specified. Existing law specifies that this requirement applies to certain Medi-Cal managed care plans, including county organized health systems and entities contracting with the department to provide services pursuant to 2-plan models and geographic managed care.

*Existing law establishes the California Program of All-Inclusive Care for the Elderly (PACE) and provides that the State Department of Health Care Services may enter into contracts with public or private nonprofit organizations for implementation of the PACE program.*

This bill would specify that the prohibition on requiring in-person contact also applies to other health care service plan contracts with the

State Department of Health Care Services for services under the Medi-Cal program, *and* publicly supported programs other than Medi-Cal, ~~and for services pursuant to the Program of All-Inclusive Care for the Elderly, as well as to the organizations implementing the PACE program.~~ By expanding the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 1374.13 of the Health and Safety Code
- 2     is amended to read:
- 3     1374.13. (a) For the purposes of this section, the definitions
- 4     in subdivision (a) of Section 2290.5 of the Business and Professions
- 5     Code shall apply.
- 6     (b) It is the intent of the Legislature to recognize the practice
- 7     of telehealth as a legitimate means by which an individual may
- 8     receive health care services from a health care provider without
- 9     in-person contact with the health care provider.
- 10    (c) No health care service plan shall require that in-person
- 11    contact occur between a health care provider and a patient before
- 12    payment is made for the covered services appropriately provided
- 13    through telehealth, subject to the terms and conditions of the
- 14    contract entered into between the enrollee or subscriber and the
- 15    health care service plan, and between the health care service plan
- 16    and its participating providers or provider groups.
- 17    (d) No health care service plan shall limit the type of setting
- 18    where services are provided for the patient or by the health care
- 19    provider before payment is made for the covered services
- 20    appropriately provided through telehealth, subject to the terms and
- 21    conditions of the contract entered into between the enrollee or
- 22    subscriber and the health care service plan, and between the health
- 23    care service plan and its participating providers or provider groups.

(e) The requirements of this section shall also apply to health care service plan contracts with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000), 14000) or Chapter 8 (commencing with Section 14200); or Chapter 8.75 (commencing with Section 14591) of, of Part 3 of Division 9 of the Welfare and Institutions Code.

(f) Notwithstanding any other provision, this section shall not be interpreted to authorize a health care service plan to require the use of telehealth when the health care provider has determined that it is not appropriate.

*SEC. 2. Section 14594 is added to the Welfare and Institutions Code, to read:*

*14594. (a) For the purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.*

*(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.*

*(c) No PACE organization shall require that in-person contact occur between a health care provider and a patient before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the PACE organization, and between the PACE organization and its participating providers or provider groups.*

*(d) No PACE organization shall limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the PACE organization, and between the PACE organization and its participating providers or provider groups.*

*(e) Notwithstanding any other provision, this section shall not be interpreted to authorize a PACE organization to require the use of telehealth when the health care provider has determined that it is not appropriate.*

~~SEC. 2.~~

*SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because*

1 the only costs that may be incurred by a local agency or school  
2 district will be incurred because this act creates a new crime or  
3 infraction, eliminates a crime or infraction, or changes the penalty  
4 for a crime or infraction, within the meaning of Section 17556 of  
5 the Government Code, or changes the definition of a crime within  
6 the meaning of Section 6 of Article XIII B of the California  
7 Constitution.

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